

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,

Cr. File No. 06-211(MJD/AJB)

Plaintiff,

v.

ORDER

**KEVIN JOSEPH FENNER (1), and
ERIC DION DAVIS (2),**

Defendants.

On January 8, 2006, the Court heard oral argument on the Parties' motions in limine. Based upon the files, records, and proceedings herein, **IT IS HEREBY ORDERED:**

1. Defendant Fenner's Motion to Dismiss [Doc. No. 94] is **DENIED**;
2. Defendant Davis's Motion in Limine to Prevent Government Witnesses From Testifying or Referring to Fentanyl as a "Killer Drug" [Doc. No. 110] is **GRANTED**;
3. Defendant Davis's Motion in Limine to Prevent the Government from Submitting or Playing Audio Tapes that Contain Narrative or Editorial Comments by Case Agents in Addition to Taped Conversation [Doc. No. 112] is **DENIED AS MOOT**. The

Government shall comply with its on-going obligation to lay the proper foundation for any tape it plays at trial;

4. Defendant Davis's Motion in Limine to Require the Prosecution to Disclose and Provide Access to all Audio and Video Tapes Pertaining to This Matter [Doc. No. 114] is **DENIED AS MOOT**;
5. Defendant Davis's Motion in Limine to Prevent the Government From Impeaching Defendant Davis on a Prior Conviction [Doc. No. 116] is **HELD IN ABEYANCE UNTIL DAVIS TESTIFIES**;
6. The Government's Motion to Amend/Correct the Indictment [Doc. No. 126] is **GRANTED**;
7. Defendant Davis's Motion to Dismiss [Doc. No. 129] is **DENIED**;
8. Defendant Fenner's Motion in Limine [Doc. No. 137] is **DENIED** as to Preventing the Government from Introducing Evidence of the Side Effects of the Controlled Substances Charged in the Indictment; **DENIED** as to Excluding the Government's Use of Transcripts of Audio Tapes That Will be Introduced into Evidence; and **DENIED AS MOOT** as to the Government's Disclosure of Evidence Under Brady and Agurs;
9. Defendant Davis's Motion in Limine to Dismiss For Failure to Provide Timely Discovery or, in the Alternative, to Prevent the Government

From Using This Discovery at Trial [Doc. No. 141] is **DENIED**;

10. Defendant Davis's Motion in Limine [Doc. No. 143] is **DENIED** as to Davis's Request to Prevent the Government's Use of Transcripts of Audio Tapes That Will be Introduced into Evidence; and **DENIED AS MOOT** as to the Government's Disclosure of Evidence Under Brady; and
11. Defendant Davis's Oral Argument to Dismiss Based on Government Misrepresentation During Grand Jury Proceedings is **DENIED**.

Dated: January 8, 2007

s/ Michael J. Davis
Michael J. Davis
United States District Court